

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH D. SPILLERS,

Petitioner,

v.

PATRICK COVELLO,

Respondent.

No. 2:24-cv-1865 WBS CKD P

FINDINGS AND RECOMMENDATIONS

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The operative petition is the second amended petition filed October 2, 2024. In the second amended petition, petitioner claims he is entitled to more good conduct sentence credit than has been applied to his sentence. Respondent asserts the second amended petition should be dismissed.

An application for a writ of habeas corpus by a person in custody under a judgment of a state court can be granted only for violations of the Constitution or laws of the United States. 28 U.S.C. § 2254(a). A federal writ of habeas corpus is not available for alleged error in the interpretation or application of state law. See Wilson v. Corcoran, 562 U.S. 1, 5 (2010); Estelle v. McGuire, 502 U.S. 62, 67-68 (1991); Park v. California, 202 F.2d 1146, 1149 (9th Cir. 2000). Respondent is correct that petitioner fails to identify a violation of federal law in his second amended petition, and that is an appropriate basis for dismissal.

Even if the court assumes petitioner has a liberty interest protected by the Due Process Clause of the Fourteenth Amendment as to the accrual of sentence credit as mandated under California law, petitioner fares no better. Petitioner has been informed that he earns 1 day of credit for every 2 days he spends in custody pursuant to Title 15 California Code of Regulations § 3043.2(b). ECF No. 9 at 15. This section applies to petitioner because he was convicted of a “violent felony” (carjacking) and is serving determinate or indeterminate sentence. Petitioner claims he is entitled to more credit under 3043.2(b)(4) or (5) because he is a minimum security prisoner. However, those sections do not apply to inmates such as petitioner who were convicted of violent felonies unless they complete firefighter training or are housed at a fire camp in a role other than firefighter. Petitioner alleges neither.

For all of the foregoing reasons, the court will recommend that respondent’s motion to dismiss be granted, petitioner’s second amended petition for a writ of habeas corpus be dismissed, and this case be closed.

Accordingly, IT IS HEREBY RECOMMENDED that:

1. Respondent’s motion to dismiss (ECF No. 16) be GRANTED;
2. Petitioner’s second amended petition for a writ of habeas corpus (ECF No. 9) be DISMISSED; and
3. This case be closed.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” In his objections petitioner may address whether a certificate of appealability should issue in the event he files an appeal of the judgment in this case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant). A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(3).

1 Any response to the objections shall be served and filed within fourteen days after service of the  
2 objections. The parties are advised that failure to file objections within the specified time may  
3 waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir.  
4 1991).

5 Dated: 10/15/25

*Carolyn K. Delaney*

6 CAROLYN K. DELANEY  
7 UNITED STATES MAGISTRATE JUDGE

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